

MT LEGISLATIVE HISTORY

Chapter 138 1965

Bill H 70 S _____

Original bill & hist. NO C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) Jan 15 ☒ C

Hearing Date(s) Feb 18 ☒ C

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Date Out Jan 15 ☒ C

Feb 23 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HOUSE BILL NO. 70
INTRODUCED BY BAILEY, McDONALD, RYGG, O'HAIR
NEFZGER, JENSEN

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE LIABILITY OF A LANDOWNER OR TENANT TO PERSONS PERMITTED TO ENTER LANDS FOR RECREATIONAL PURPOSES, AND DEFINING RECREATIONAL PURPOSES."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. A landowner or tenant who permits by act or implication, any person to enter upon any property in the possession or under the control of such landowner or tenant for any recreational purpose without accepting a valuable consideration therefor, does not by granting such permission, extend any assurance that such property is safe for any purpose, nor confer upon such a person the status of invitee or licensee to whom any duty of care is owed, and such landowner or tenant, shall not be liable to such person for any injury to person or property resulting from any act or omission of such landowner or tenant, unless such act or omission constitutes gross negligence or wilful or wanton misconduct.

Section 2. Recreational purposes as used herein shall include hunting, fishing, swimming, boating, water skiing, camping, picnicking, pleasure driving, winter sports, hiking or other pleasure expeditions.

JUDICIARY COMMITTEE
January 15, 1965

House Bill No. 36. Action on this bill was passed until Monday, January 18th.

Civil Suit 1214 -- It was felt there wasn't much that could be done since the Federal Court decided the Legislature should act on reapportionment. Mr. Sheehy suggested that the report be made along the lines they have set out and that perhaps the Committee should ask the Opinion be mimeographed and distributed to all the members. Representative Mather made the motion to this effect and the motion carried.

House Bill No. 19. Chairman Sheehy said it was his feeling at the Public Hearing on Thursday, that a number of the Judiciary Committee members were reticent in regard to asking questions, and he felt the members might wish to have Mr. V. A. Burr of the Public Welfare Department to appear before our committee.

House Bill No. 42. Representative McNamer mentioned this bill might come up for Public Hearing. Representative Jensen stated this item stirs up so much feeling. Chairman Sheehy suggested that Representative Watt be requested to appear January 18th before the committee to speak in behalf of his bill. Mr. McNamer suggested perhaps we should hear from various law enforcement people.

House Bills 47 and 85 were given to a subcommittee consisting of Reprs. Hall, Mather and Netzer. A temporary date for report is the middle of next week.

House Bill 70. Representative Bailey spoke to the Committee regarding this bill. Representative Jensen moved that House Bill No. 70 as amended - the motion of Representative McNamer - to strike out the words "gross negligence or" on Line 19, page 1 be reported out for adoption.

There being no further business, the meeting adjourned.


John C. Sheehy, Chairman

SENATE JUDICIARY COMMITTEE MEETING - February 18, 1965
Senator Mahoney, Chairman
Senator Dussault, Vice Chairman

The meeting was called to order by the Chairman, Senator Mahoney. All the members of the committee were present.

House Bill No. 71 was considered and the following amendments were proposed: Amend on page 5, Section 9, line 20 of the original bill, being page 5, Section 9, line 9 of the printed bill, by striking after the word "b" the following: "final and"; further amend on page 6, Section 9, following line 7 of the original bill, being page 6, Section 9, following line 24 of the printed bill, by inserting the following new paragraph: "The appropriate unit or health care facility may be proceedings commenced within thirty (30) days from the rendition thereof, obtain court review of any determination of the Board of Arbitrators in the District Court of the county in which the health care facility is located. Such suit shall be tried de novo and disposed of as an ordinary civil suit. Appeals from judgments of the District Court may be taken to the Supreme Court in the same manner as appeals are taken in civil actions." Senator Huntley made a motion, seconded by Senator McGowan, that the amendments be adopted. The motion was carried. Senator Huntley then made a motion, seconded by Senator McGowan, that the committee recommend that House Bill No. 71, as amended, be concurred in. Senators Turnage, McDonnell, Gerard and Bentz voted "No". The motion was carried.

Mr. John Hall, Representative from Cascade County, appeared before the committee in support of House Bill No. 49. As the author of the bill, he briefly explained it to the committee. He said the purpose of the bill was to amend a section of the Public Welfare Act relating to submission of a budget and to amend another section of the Act relating to the age of eligibility for dependent children. Also appearing before the committee in support of the bill was Mr. Vivian Burr, from the Department of Public Welfare. Appearing before the committee in opposition to House Bill No. 49 was Mr. John Fouse, State Administrator of Public Welfare.

Mr. Manson Bailey, Representative from Valley County, appeared before the committee in support of House Bill No. 70. He informed the committee that the purpose of his bill was to limit the liability of a landowner or tenant to persons permitted to enter lands for recreational purposes. Mr. Bailey also appeared before the committee in support of House Bill No. 74. He told the committee that the purpose of this bill was to provide for liability of a person on the land of another for any damages arising because of his negligence.

Mr. Robert Deschamps, Representative from Missoula County, appeared before the committee in support of House Bill No. 72. He informed the committee that the purpose of his bill was to authorize the incorporation of development credit corporations for the purpose of promoting, developing and advancing the prosperity and economic welfare of the state. Mr. Deschamps also appeared before the committee in support of House Bill No. 76. He told the committee that the purpose of this bill was to provide for the unit ownership of multiple-unit buildings, and also to be cited as the Unit Ownership Act. Also appearing before the committee in support of House Bill No. 76 were the following: Clarence Sullivan, Vice President of the Union Bank

.....February 23, 1953.....

MR. PRESIDENT:

We, your Committee on.....Interior.....
having had under consideration.....House.....Bill No. 19.....

**A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE LIABILITY OF A LANDOWNER OR
TENANT TO PERSONS PRESENTED TO ENTER LANDS FOR RECREATIONAL PURPOSES, AND DEFENSE
RECREATIONAL PURPOSES."**

Respectfully report as follows: That.....House.....Bill No. 19.....

BE CONCURRED IN

RECOMMENDED

DO 1-533.

.....Raymond E. Mahoney.....Chairman

(3) Hearings provided for in this act may be conducted by the sheriff or deputy sheriff designated by him in the name of the sheriff at a time and place specified by the sheriff.

Administrative hearing—power of sheriff.

Section 10. At an administrative hearing the sheriff or a deputy sheriff designated by him to hold the hearing may:

(a) administer oaths

(b) examine witnesses and

(c) issue in the name of the sheriff notices of hearings and subpoenas to witnesses and for production of evidence relevant to any matter involved in the hearing.

Appeal from decision of sheriff at hearing.

Section 11. (1) Within fifteen (15) days of the mailing of notice of the final decision of the sheriff, a person who has petitioned for a hearing may appeal from the decision.

(2) Appeal will be made to the district court of the county in which the junkyard is located.

(3) The court shall set the matter for hearing upon thirty (30) days' written notice to the sheriff and petitioner. At the hearing, the court shall take testimony, examine the facts of the case, and determine whether the petitioner is entitled to relief.

Violation—penalty.

Section 12. A person violating a provision of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00). Each day of violation of the provisions of this act shall constitute a separate offense.

Approved March 1, 1965.

CHAPTER 137

An Act Authorizing and Directing the State Highway Commission to Establish Temporary and Permanent Ports of Entry and Checking Stations.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. To augment and help make more efficient and effective the enforcement of certain laws of the state of Montana, the state highway commission is hereby authorized and directed to establish from time to time temporary or permanent ports of entry or checking stations upon any highways in the state of Montana and at such places as the state highway commission shall deem necessary and advisable.

State highway commission authorized to establish ports of entry or checking stations upon any highway in the state of Montana.

Section 2. In addition to the power granted to the state highway commission in section 1 of this act, it shall be the duty of the commission to establish checking stations at convenient points on the major highways entering this state, and such checking stations shall be kept open at all times.

Duty of commission to establish checking stations on major highways entering state.

Section 3. The state highway commission shall cooperate with all other agencies of this state, or any political subdivisions thereof, in the use of such ports of entry or checking stations, so that maximum use can be made of such facilities in enforcement of the laws of this state.

Commission to cooperate with other agencies of state.

Section 4. The state highway commission shall prepare a budget for an appropriation from the highway account in the earmarked revenue fund for the construction and operation of the checking stations provided for in section 2 of this act, which budget shall be over and above any budget requests for the operation and maintenance of the present facilities, for the 1967-1968 biennium, and submit the same to the budget director.

Commission to prepare a budget for construction and operation.

Section 5. This act is effective December 31, 1966.

Effective December 31, 1966.

Approved March 1, 1965.

CHAPTER 138

An Act Limiting the Liability of a Landowner or Tenant to Persons Permitted to Enter Lands for Recreational Purposes, and Defining Recreational Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. A landowner or tenant who permits by act or implication, any person to enter upon any property in the possession or under the control of such landowner or tenant for any recreational purpose without accepting a valuable consideration therefor, does not by granting such permission, extend any assurance that such property is safe for any purpose, nor confer upon such a person

Landowner or tenant who permits any person to enter upon land in possession for recreational purpose without accepting consideration shall not be liable for injury unless it results from a willful or wanton act.

the status of invitee or licensee to whom any duty of care is owed, and such landowner or tenant, shall not be liable to such person for any injury to person or property resulting from any act or omission of such landowner or tenant, unless such act or omission constitutes wilful or wanton misconduct.

Recreational
purposes.

Section 2. Recreational purposes as used herein shall include hunting, fishing, swimming, boating, water skiing, camping, picnicking, pleasure driving, winter sports, hiking or other pleasure expeditions.

Approved March 1, 1965.

CHAPTER 139

An Act to Establish Uniform and Modern Regulations Relating to Brakes on Vehicles; Requiring Brakes on All Vehicles and Specifying Exceptions Thereto; Requiring Vehicles to be Equipped With Both Service and Parking Brakes; Establishing Performance Ability of Brakes; Defining Hydraulic Brake Fluid; Authorizing Patrol Board to Adopt Brake Fluid Standards and Specifications; Prohibiting the Sale of Brake Fluid Which Does Not Meet Specifications; Repealing Section 32-21-143, R. C. M., 1947, and All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Brake equipment
required.

Section 1. **Brake equipment required.** Every motor vehicle, trailer, semitrailer and pole trailer, and any combination of such vehicles operating upon a highway within this state shall be equipped with brakes in compliance with the requirements of this chapter.

Service brakes
—adequacy.

(a) **Service brakes—adequacy.** Every such vehicle and combination of vehicles, except special mobile equipment as defined in sections 32-2102 (h) and 53-639, R. C. M., 1947, shall be equipped with service brakes complying with the performance requirements of section 2 of this act and adequate to control the movement of and to stop and hold such vehicle under all conditions of loading, and on any grade incident to its operation.

Parking brakes
—adequacy.

(b) **Parking brakes—adequacy.** Every such vehicle and combination of vehicles, except motorcycles and

motor-driven cycles, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The same brake drums, brake shoes and lining assemblies, brake shoe anchors and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes.

(c) **Brakes on all wheels.** Every vehicle shall be equipped with brakes acting on all wheels except:

Brakes on all
wheels—exceptions.

1. Trailers, semitrailers, pole trailers of a gross weight not exceeding three thousand (3,000) pounds, provided that:

Trailers—
limitation.

a. The total weight on and including the wheels of the trailer or trailers shall not exceed forty per cent (40%) of the gross weight of the towing vehicle when connected to the trailer or trailers, and

b. The combination of vehicles, consisting of the towing vehicle and its total towed load, is capable of complying with the performance requirements of section 2 of this act.

2. Any vehicle being towed in driveaway or towaway operations, provided the combination of vehicles is capable of complying with the performance requirements of section 2 of this act.

Towed vehicle—
limitation.

3. Trucks and truck-tractors having three (3) or more axles need not have brakes on the front wheels, except

Trucks and tractors
—exception
—limitation.